

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF VIRGINIA

Alexandria Division

| | | |
|--------------------------|---|---------------------|
| UNITED STATES OF AMERICA |) | |
| |) | |
| v. |) | CRIMINAL NO. 02-338 |
| |) | |
| MICHAEL A. CAIN, |) | |
| |) | |
| Defendant. |) | |

STATEMENT OF FACTS

The United States and the defendant, Michael A. Cain, agree that, had this matter proceeded to trial, the United States would have proven the following facts beyond a reasonable doubt:

1. During 1991 through 2000, defendant Michael A. Cain, age fifty-seven, was a self-employed computer programmer who owned and operated a computer consulting business in the Eastern District of Virginia. The business was named Service CPM.

2. From June 1991 through May 2001, the Internal Revenue Service (IRS) attempted to obtain payment from defendant Cain for the federal income taxes, interest and penalties. During that time, defendant Cain knowingly and intentionally attempted to evade and defeat the payment of his income tax liability.

3. During the years 1993 through 2001, the IRS filed federal tax liens in Maryland and Virginia in an attempt to collect the taxes owed by defendant Cain.

4. Defendant Cain attempted to evade payment by making false and fraudulent statements to revenue officers. He falsely

represented that significant monthly payments were being made to the IRS. He also made false and misleading statements to the revenue officers regarding his financial status.

5. Defendant Cain failed to file timely income tax returns for the years 1994, 1995, 1996, and 1997. In July 1998, defendant Cain filed delinquent income tax returns for the years 1994, 1995, 1996, and 1997, but he failed to pay the income tax liability reported on the income tax returns.

6. Defendant Cain filed false and fraudulent income tax returns for the years 1995 through 1997 which did not accurately report the gross receipts (line 1) on the Schedule C, Profit or Loss from Business.

7. During the calendar year 1998, defendant Cain had gross business receipts of approximately \$159,000. Defendant Cain failed to file his 1998 United States Individual Income Tax Return on or before April 15, 1999.

8. During the calendar year 1999, defendant Cain had gross business receipts of approximately \$105,000. Defendant Cain failed to file his 1999 United States Individual Income Tax Return on or before April 17, 2000.

9. During the calendar year 2000, defendant Cain had gross business receipts of approximately \$78,000. Defendant Cain failed to file his 2000 United States Individual Income Tax Return on or before April 16, 2001.

10. Defendant Cain attempted to conceal his financial transactions from the IRS with the use of cash transactions.

11. Rather than depositing checks into a business account, defendant Cain took checks from his business customers to a check cashing business known as "Checks Cashed" in Manassas, Virginia. During the years 1995 through 1998, defendant Cain cashed checks comprising approximately \$550,000 in business income at this location and paid approximately \$8,500 in check cashing fees. In addition, defendant Cain frequently paid his expenses through the use of money orders purchased at "Checks Cashed."

12. In December 1998, defendant Cain also attempted to conceal income by opening, or causing to be opened, a business checking account in the name of another individual, trading as, Service CPM. Defendant Cain deposited income generated from his business to this account and used this money to pay for personal expenses.

13. Although defendant Cain was aware that his tax liability took priority over other debts, defendant Cain consistently paid other creditors ahead of his tax liability. Between 1996 and 1999, defendant Cain made over \$80,000 in payments on his and his wife's credit cards. Defendant Cain also made over \$30,000 of payments to, or on behalf of, his family members rather than paying his tax liability.

14. The loss for sentencing purposes under U.S.S.G. §§2F1.1 is \$176,981.

15. The actions of defendant Michael A. Cain, as recounted above, were in all respects intentional and deliberate, reflecting an intention to do something the law forbids, and were not in any way the product of any accident or mistake of law or fact.

16. The foregoing statement of facts is a summary of the principal facts that constitute the legal elements of the offense of attempting to evade the payment of income taxes in violation of 26 U.S.C. § 7201 for the year 1997. This summary does not include all of the evidence that the government would present at trial or all of the relevant conduct that would be used to determine the defendant's sentence under the Sentencing Guidelines and Policy Statements.

Respectfully submitted,

PAUL J. McNULTY
United States Attorney

By: _____
Dana J. Boente
Assistant United States Attorney

After consulting with my attorney and pursuant to the plea agreement entered into this day between the defendant, Michael A. Cain and the United States, I hereby stipulate that the above Statement of Facts is true and accurate, and that had the matter proceeded to trial, the United States would have proved the same beyond a reasonable doubt.

MICHAEL A. CAIN

I am Michael A. Cain's attorney. I have carefully reviewed the above Statement of Facts with him. To my knowledge, his decision to stipulate to these facts is an informed and voluntary one.

Suzanne Little, Esquire
Attorney for Michael A. Cain